

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

**CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED**

APR 13 2011

JULIA C. DUDLEY, CLERK  
BY: *Dudley*  
DEPUTY CLERK

CHRISTOPHER DEAN HUBBARD, )  
Plaintiff, ) Case No. 7:11CV00162  
v. )  
COMMONWEALTH, ) FINAL ORDER  
Defendant. ) By: Glen E. Conrad  
                  ) Chief United States Dis

In accordance with memorandum opinion entered February 28, 2011, it is hereby

**ADJUDGED AND ORDERED**

that this civil action is hereby **CONSTRUED** as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, and is **DISMISSED** without prejudice, pursuant to Rule 4 of the Rules Governing § 2254 Cases; and this action is stricken from the active docket of the court. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability so as to allow an appeal of this decision to the United States Court of Appeals for the Fourth Circuit is **DENIED**.

The clerk shall send a copy of this final order and the accompanying memorandum opinion to the plaintiff/petitioner.

ENTER: This 13<sup>th</sup> day of April, 2011.

Anne Comst

## **Chief United States District Judge**